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Aloe Energy Corp v. Comm Social Security

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 99-3915

ALOE ENERGY CORPORATION,
a Pennsylvania Corporation,
Appellant
v.

JO ANNE BARNHART*, Commissioner of
Social Security
*(Pursuant to Rule 43(c), F.R.A.P.)

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil No. 98-cv-01371)
District Judge: Honorable Donald E. Ziegler

Submitted Under Third Circuit LAR 34.1(a)
May 26, 2000 and
On Remand from the United States Supreme Court
by Order of February 25, 2002

Before: ALITO and RENDELL, Circuit Judges, and DUH₁, Senior Circuit Judge*

(Filed: July 12, 2002)

OPINION OF THE COURT

*The Honorable John M. Duh , Jr., United States Court of Appeals Judge for the Fifth Circuit, sitting by designation.

RENDELL, Circuit Judge.

Our judgment order affirming the order of the District Court was vacated by the United States Supreme Court and remanded for further consideration in light of Barnhart v. Sigmon Coal Co., 534 U.S. 438 (2002). See Aloe Energy Corp. v. Barnhart, 122 S. Ct. 1170 (2002). The Supreme Court's opinion in Barnhart rejects the basis for the District Court's ruling, and ours as well. We conclude that there is no alternative basis argued by the Commissioner, including the "alter ego" theory, on which we would affirm. Accordingly, we will reverse the District Court's order and remand to the District Court with instructions to enter judgment in favor of Aloe.

TO THE CLERK OF COURT:

Please file the foregoing opinion.

/s/Marjorie O. Rendell
Circuit Judge